

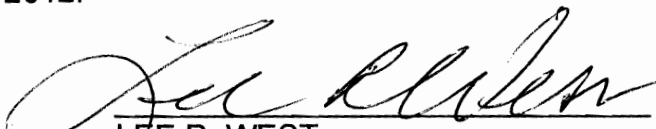
15, 2010; Johnson therefore had until January 15, 2011, to seek relief under 28 U.S.C. § 2254. The instant Petition is file-stamped January 27, 2012. Accordingly, this matter is time-barred unless Johnson can establish that the one-year limitations period has been tolled.

The record reveals that Johnson is neither entitled to statutory tolling, e.g., 28 U.S.C. § 2244(d)(2)(time during which properly filed application for post-conviction or other collateral review pending not counted), nor entitled to equitable tolling. E.g., Lopez v. Trani, 628 F.3d 1228 (10th Cir. 2010)("actual innocence" exception to procedural barrier posed by AEDPA's limitations period applied only in extraordinary cases); Gibson v. Klinger, 232 F.3d 799, 808 (10th Cir. 2000)(equitable tolling appropriate only if uncontrollable circumstances exist).

Accordingly, the Court

- (1) ADOPTS the Report and Recommendation [Doc. 14] issued on May 7, 2012;
- (2) GRANTS Jones' Motion to Dismiss Petition for Habeas Corpus as Time Barred by the Statute of Limitations [Doc. 11] filed on March 1, 2012;
- (3) DISMISSES Johnson's Petition with prejudice; and
- (4) having found no grounds exist that warrant an evidentiary hearing on any issues raised by Johnson in his Petition or in any other document, hereby DENIES Johnson's Request for Evidentiary Hearing [Doc. 3] file-stamped January 27, 2012.

ENTERED this 19th day of June, 2012.


LEE R. WEST
UNITED STATES DISTRICT JUDGE